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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,217	01/09/2007	Craig Black	US030 491 US2	1645

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EXAMINER

WALCZAK, DAVID J

ART UNIT	PAPER NUMBER
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3751

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/581,217	Applicant(s) BLACK, CRAIG	
	Examiner David J. Walczak	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/1/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Abstract

The abstract of the disclosure is objected to because the abstract should be submitted on a separate sheet. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Jecker.

In regard to claim 1, Jecker discloses a toothbrush comprised of a bristle plate having a cavity 16 therein and a duckbill valve assembly 17 disposed in the cavity.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jecker in view of Barinaga et al. (hereinafter Barinaga).

In regard to claim 2, Jecker discloses to duckbill valves 17. Although the Jecker reference does not disclose that the valves are secured via a flange member extending therebetween, attention is directed to the Barinaga reference, which discloses a method of forming duckbill valves wherein several valves 104A, 104B (see Figure 11) can be secured to each other via a flange member 104 in order to enable various valves to be formed in a single process and thereby simplify the assembly of devices that employ various duckbill valves (see Figures 11-12 and column 4, line 66 through column 5, line 20). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made that the valves in the Jecker device can be formed with such a flange extending therebetween in order to enable the valves to be formed via a single process and thereby simplify the assembly of the device.

In regard to claim 3, the flange member disclosed by Barinaga is substantially flat.

In regard to claim 4, the duckbill valves in the Jecker reference have slits 19 that are parallel to each other (see Figure 1).

In regard to claim 5, although the slits 19 are arranged parallel to each other and not in a single line as claimed, it is the Examiner's position that it would have been obvious to one of ordinary skill in the art at the time the invention was made that the slits can be arranged in any suitable orientation, including the claimed orientation, without effecting the overall operation of the device.

In regard to claim 6, the duckbill valves 17 are substantially identical.

In regard to claim 7, the valves 17 are sufficiently spaced to permit bristles 15 to be mounted to the bristle plate.

In regard to claim 8, Jecker discloses the use of two valves 17.

In regard to claim 9, Jecker discloses the use of more than two valves 17 (see lines 24-26).

In regard to claim 10, although the valves 17 are substantially identical and not of varying size, it is the Examiner's position that it would have been obvious to one of ordinary skill in the art at the time the invention was made that the valves can be designed to have any suitable sizes (including varying sizes), depending on the needs of the user/manufacturer without effecting the overall operation of the device. Further, upon varying sized valves being employed, the valves would be considered "arranged to accommodate different fluids to flow therethrough".

In regard to claim 11, a holding member (the portion of bristle plate 14 that is positioned to the right of cavity 16 viewing Figure 2) is disposed over the duckbill valves and cavity.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Megill et al. reference is cited for disclosing another toothbrush that employs multiple duckbill valves.

Art Unit: 3751

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Walczak whose telephone number is 571-272-4895. The examiner can normally be reached on Mon-Thurs, 6:30- 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huson Gregory can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

David J. Walczak
Primary Examiner
Art Unit 3751

DJW
3/21/09

/David J. Walczak/
Primary Examiner, Art Unit 3751